

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- February 21, 1973

Application No. 11267 Roy L. Stuart, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried by a vote 3-0, the following Order of the Board was entered at the meeting of March 20, 1973.

ORDERED:

That the application of Roy L. Stuart to request a variance from the use provisions of the R-5-A District to permit office building at 522 and 524 Raleigh Street, S. E., lot 55 and 52, Square 5988 be ~~DENIED~~.

FINDINGS OF FACT:

1. Subject property is located in an R-5-A District which is defined by the zoning regulations as an area of general residence; low density.

2. At the present time the subject property is improved by an apartment building; the applicant proposes to convert the subject properties from an apartment building use to an office building use.

3. In order for the applicant to be permitted to convert the use; he must first obtain a use variance from the Board of Zoning Adjustment. A use variance requires strict proof of hardship since a use variance seeks a use ordinarily prohibited in the particular district.

4. It is the applicant's testimony that the tenants of the subject building have been guilty of lease (continuous) violations; also maintenance expenditures for excessive wear and tear have drained the owner financially.

5. It is presently a two-story apartment building containing four apartment units; and the applicant would like permission to phase out the residential occupancy units and put offices into the building.

6. This area, by the applicant's own testimony before the Board, is predominantly a residential-apartment district.

7. It is applicant's testimony that several social agencies seeking office space have approached him in an effort to operate commercially out of the subject apartment building.

8. No opposition against this application was voiced at the public hearing nor were any letters in opposition submitted to the file for the Board's consideration.

OPINION:

The Board has reviewed the entire record in the application herein and is of the opinion that justifiable reasons for a granting of a use variance have not been demonstrated to a substantial degree which would warrant the relief requested.

We are bound by the Courts to the strict interpretation of a use variance as set forth in the instant case of Palmer v. Board of Zoning Adjustment. The evidence which this official body must first take notice of has been made emphatic and applicant has failed to meet the burden. We have no alternative but to DENY.

Strict proof of hardship befalling the owner must be the sole basis of relief for the applicant; financial problems in operating the existing apartment building are immaterial and for the most part can be merely considered a portion of the evidence in which we are obliged to review.

We are of the opinion that appellant has not proved a hardship within the meaning of the variance clause of the Zoning Regulations and that a denial of the requested relief will not result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

Further, we hold that the requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BY THE ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED

A handwritten signature in cursive script that reads "George A. Grogan". The signature is written in dark ink and is positioned above a horizontal line.

BY:

GEORGE A. GROGAN
Secretary of the Board

April 6, 1973